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APR 26 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Schneider :
Application No. 10/674,615 :
Filed: September 30, 2003 :
Attorney Docket No. 7784-553/CPA :
For: POLYMER COMPOSITE :
STRUCTURE REINFORCED WITH SHAPE :
MEMORY ALLOY AND METHOD OF :
MANUFACTURING SAME :

This is a decision on the reconsideration petition under 37 CFR 1.137(a), filed March 21, 2007. The petition will be treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 is **GRANTED**.

The petition under 37 CFR 1.137(a) is **DISMISSED AS MOOT**.

Because the petition was ultimately granted under 37 CFR 1.181(a feeless petition), the \$500.00 Rule 137(a) petition fee submitted on August 10, 2006 will be credited to deposit account no. 08-0750.

The Office contended that the above-identified application became abandoned for failure to timely reply to non-final Office action, mailed November 30, 2004, which set an extendable period for reply of three (3) months. Having filed no reply, this application became abandoned on March 1, 2005. A Notice of Abandonment was mailed on June 29, 2005.

Petitioner states that the non-final Office action mailed on November 30, 2004 was not received at the correspondence address of record.

The showing required to establish non-receipt of an Office communication must include:

1. A statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.

2. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.¹

Petitioner has submitted a copy of the docket record where the requirement would have been entered had the November 30, 2004 non-final Office action been received. In addition, practitioner referenced the docket record in the petition and stated that a review of the application's file jacket and docket record for the November 30, 2004 non-final Office action was fruitless.

Petitioner has established non-receipt. The petition is **granted**, the June 29, 2005 Notice of Abandonment is **vacated**, and the holding of abandonment is withdrawn.

After the mailing of this decision, the application will be returned to Technology Center A.U. 1774 for the re-mailing of the November 30, 2004 non-final Office action with a new period set for response.

Telephone inquiries may be directed to the undersigned at (571) 272-3230.



Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

¹ See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).